

### **REMARKS**

#### **Status of the Claims**

Claims 1-3, 5-8 and 10 are pending, claims 1 and 6 being independent claims.

Claims 4 and 9 were previously canceled.

Claims 1-3, 5-8 and 10 have been rejected under 35 U.S.C. 103(a) for obviousness over Winberg (GB 2369003) in view of Helmersson (WO 02/067606) and further in view of Wallentin (US 6,347,091).

Claims 1 and 6 are amended herein.

Claims 11 – 16 are newly added herein. No new matter is added by the newly added claims.

#### **Claim 1**

Amended claim 1 requires, in part, “determining whether or not the shared channels are in a mode in which an acknowledgement of receipt is required to be received back before data is assumed to have been correctly received” and “deciding to make the transfer, dependent upon said value and upon said amount or rate, and upon said mode.”

Support for the amendment is found at [0013] of the application publication, US 2004/0082336. The detailed description first describes decision block (12) operating by considering weighted factors that include buffer occupancy (14), data rate (16) and RF power requirement (18). Publication [0019-0020]. The specification later teaches further input (not shown) into the decision block (12) being a “signal indicating whether or not acknowledgements are required to be received back before data is assumed to have been correctly received” and describes checking of whether

“the FACH/RACH channel state is in Acknowledge mode (i.e., acknowledgements being required)”. Publication [0026].

The cited Winberg, Helmerson and Wallentin fail to teach or suggest the recited feature in claim 1 of determining whether or not the channels are in a mode (requiring acknowledgement). Accordingly, Applicant requests withdrawal of the rejection and allowance of the claim.

Although the cited art Wallentin apparently teaches an acknowledgement of receipt is sent on receiving data, Wallentin fails to teach or suggest deciding to make the transfer between channels dependent on whether there is an acknowledgements mode that is on or off. Wallentin teaches deciding whether to switch between dedicated and shared channels based on a threshold of number of sent packets awaiting receipt of acknowledgement from the receiver. Wallentin 7:58-62. In sharp contrast, the claimed invention relates to deciding whether to switch based on determining/(said determination) whether or not the shared channels are in a mode in which an acknowledgment of receipt is required to be received back before data is assumed to have been correctly received.

Further, Winberg teaches deciding to make the transfer dependent upon other factors than those recited by the claimed invention. Specifically, Winberg teaches deciding whether to switch between dedicated and shared channels based on buffer level threshold values, data throughput level threshold values, and time values. Winberg 4:23-24 and 5:24-26. Helmerson is directed to a switching scheme in which users which are close to a base station are allocated a downlink shared channel in order to save channelization codes in the system, whereas users that are far from a base station are allocated a downlink dedicated channel in order to conserve transmission power. Helmerson Abstract. Winberg and Helmerson do not suggest determining whether or not the shared channels are in a mode in which an acknowledgment of receipt is required to be received back before data is assumed to have been correctly received for the determination of whether to switch between dedicated and shared channels.

Accordingly, since the cited references fail to teach or suggest this claim feature, the Applicant requests that amended claim 1 be allowed.

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Claims 2, 3 and 5 depend from and include all the limitations of base claim 1. Accordingly, dependent claims 2, 3 and 5 are patentable not least on the basis that they each depend on an allowable independent claim 1.

**Claim 6**

Amended claim 6 recites:

“the decision means being operative to control transfer of the call connection by the channel allocator between the dedicated channels and the shared channels dependent upon:

...a third input signal to the decision means indicating whether or not the shared channels are in a mode in which an acknowledgement of receipt is required to be received back before data is assumed to have been correctly received.”

Neither Helmerson, Winberg or Wallentin teaches or suggests such an input signal to the decision means indicating “whether or not the shared channels are in a mode in which an acknowledgement of receipt is required to be received back before data is assumed to have been correctly received”, where the decision means operate to control transfer of a call connection between dedicated and shared channels dependent upon that input signal indicative of the mode. None of these references suggest decision means operate to control transfer of a call connection between dedicated and shared channels dependent upon, amongst other things, that third input signal.

It follows that since the cited references fail to teach or suggest this claim feature, the 35 U.S.C.103 rejection should be withdrawn.

**Claims 7, 8 and 10**

Claims 7, 8 and 10 depend from and include all the limitations of base claim 6. Accordingly, dependent claims 7, 8 and 10 are patentable not least on the basis that they each depend on an allowable independent claim 6.

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**New Claims 11 -16**

Claims 11 – 16 are newly added herein. No new matter is added by the newly added claims, support for the new claim being found throughout the specification.

[0019] – [0026] and the original claims.

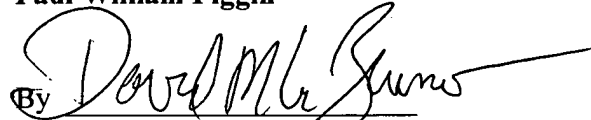
Accordingly, allowance of claim 11-16 is respectfully requested.

**Conclusion**

In view of the foregoing, allowance of all the claims presently in the application is respectfully requested, as is passage to issuance of the application. If the Examiner should feel that the application is not yet in a condition for allowance and that a telephone interview would be useful, he is invited to contact Applicants' attorney, David M. La Bruno, at **908 582 3190**.

Respectfully submitted,

**Iqbal Jami**  
**Paul William Piggin**

By 

**David M. La Bruno**  
**Attorney for Applicants**  
**Reg. No.: 46,266**  
**908 582 3190**

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**Docket Administrator (Room 2F-192)**  
**Lucent Technologies Inc.**  
**600 Mountain Avenue**  
**Murray Hill, NJ 07974-0636**